



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2013-0983]

RIN 1625-AA09

Drawbridge Operation Regulation; Thames River, New London, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

---

—

SUMMARY: The Coast Guard proposes to change the operating schedule that governs the Amtrak Bridge across the Thames River, mile 3.0, at New London, Connecticut. Under this notice of proposed rulemaking the bridge would open to 75 feet above mean high water instead of the full open position of 135.3 feet unless a full bridge opening is requested. It is expected that this change to the regulations will create efficiency in drawbridge operations while continuing to meet the reasonable needs of navigation.

DATES: Comments and related material must be received by the Coast Guard on or before *[INSERT DATE 60 DAYS*

*AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: You may submit comments identified by docket number USCG-2013-0983 using any one of the following methods:

(1) Federal Rulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC, 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Ms. Judy Leung-Yee, Project Officer, First Coast Guard District Bridge Program, telephone 212-668-7165, e-mail [judy.k.leung-yee@uscg.mil](mailto:judy.k.leung-yee@uscg.mil). If you have questions on viewing or

submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Tables of Acronyms

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
§	Section Symbol
U.S.C.	United States Code

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2013-0983), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online

(<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number USCG-2013-0983 in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material

received during the comment period and may change the rule based on your comments.

## 2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2013-0983) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

## 3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

#### 4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under ADDRESSES. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

#### B. Basis and Purpose

The Amtrak Bridge across the Thames River, mile 3.0, at New London, Connecticut, has a vertical clearance in the closed position of 29.4 feet at mean high water and 31.8 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.224.

The waterway users are both recreational and commercial vessels.

The owner of the bridge, National Passenger Railroad Corporation (Amtrak), is requesting an exception to the requirement to fully open the bridge to its full 135.3 foot height above mean high water when not required for a vessel to pass under safely. Amtrak submitted the request to the Coast Guard to change the drawbridge operation regulations to allow

the Amtrak Bridge to open to 75 feet above mean high water for smaller vessels which comprise the majority of the requested openings. The Amtrak Bridge will perform a full bridge opening of 135.3 feet above mean high water when requested to do so.

The existing regulations require the bridge to open immediately on signal for public vessels of the United States and commercial vessels; except that, when a train scheduled to cross the bridge without stopping has passed the Midway, Groton, or New London stations and is in motion toward the bridge, the bridge must not be opened for the passage of any vessel until the train has crossed the bridge. The bridge shall open as soon as practicable for all other vessels but no later than 20 minutes after the signal to open is given.

Under this proposed rule the draw would open on signal as stated above but only to 75 feet above mean high water; except, when a full opening to 135.3 feet above mean high water is requested. The bridge tender is aware of the vertical clearance from the low steel chord of the bridge to the water level by a sensor displaying distance on the Operator Control Panel housed in the Drawbridge Control Room at the bridge. A selector switch is placed in the 75 foot position or

full lift (135.3 feet) position by the bridge tender prior to operations depending on the vessel requirements.

C. Discussion of Proposed Rule

The Coast Guard proposes to change the drawbridge operation regulations at 33 CFR 117.224 to allow the Amtrak Railroad Bridge to open on signal to only 75 feet above mean high water unless a full opening to 135.3 feet above mean high water is requested.

We analyzed the bridge opening data for the Amtrak Railroad Bridge during calendar year 2013, comparing the number of bridge openings to 135.3 feet and the number of bridge openings to 75 feet for each month of the year.

The bridge opening breakdown for 2013 is as follows:

Month	Total Openings	Openings to 135 feet	Openings to 75 feet
January	98	17	81
February	58	8	50
March	62	2	60
April	83	12	71



May	220	40	180
June	255	38	217
July	257	42	215
August	243	34	209
September	227	26	201
October	216	25	191
November	84	8	76
December	97	6	91
TOTALS	1,900	258	1,642

Out of the total 1900 bridge openings, only 13.57% were to the 135.3 foot elevation and the remaining 86.43% were to the 75 foot elevation.

As a result the Coast Guard believes that allowing the Amtrak Railroad Bridge to open to 75 feet, except when a request to open to 135.3 feet is requested, is reasonable based on the low number requests to open to 135 feet and to match actual operations.

Due to the unique nature of the drawbridge operation for this Amtrak Bridge, the Coast Guard also proposes to alter the lighting requirements to better meet the needs of navigation at this drawbridge. In accordance with 33 CFR § 118.85, the center of the navigational channel under the operable span will be

marked by a range of two green lights when the vertical span is open to navigation. The Coast Guard proposes to allow one solid green light and one flashing green light when the bridge is at the 75 footmark and two solid green lights when the bridge is fully opened to 135.3 feet.

We believe this proposed rule will continue to meet the reasonable needs of navigation while also improving drawbridge efficiency of operation.

#### D. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

##### 1. Regulatory Planning and Review

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866, or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We

believe that this rule is not a significant regulatory action because the bridge will open fully for any vessel upon request.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This action will not have a significant economic impact on a substantial number of small entities for the following reason: The bridge will open fully for all vessel traffic at all times upon request.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES)

explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### 4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the

States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### 11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments,

because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01, and Commandant Instruction M16475.1D which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule

simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of significant environmental impact from the proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1;  
Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.224 to read as follows:



§ 117.224 Thames River.

The draw of the Amtrak Railroad Bridge, mile 3.0, at New London, shall operate as follows:

- (a) The draw shall open on signal to 75 feet above mean high water for all vessel traffic unless a full bridge opening to 135.3 feet above mean high water is requested.
- (b) The 75 foot opening will be signified by a range light display with one solid green light and one flashing green light and the full 135.3 foot opening will be signified with two solid green range lights.
- (c) The draw shall open on signal for public vessels of the United States and commercial vessels; except that, when a train scheduled to cross the bridge without stopping has passed the Midway, Groton, or New London stations and is in motion toward the bridge, the lift span shall not be opened until the train has crossed the bridge.

- (d) The draw shall open on signal as soon practicable for all other vessel traffic but no later than 20 minutes after the signal to open is given.

Dated: August 22, 2014

V.B. Gifford, Jr.  
Rear Admiral, U.S. Coast Guard  
Commander, First Coast Guard District

[FR Doc. 2014-21680 Filed 09/10/2014 at 8:45 am;  
Publication Date: 09/11/2014]